

SNOHOMISH COUNTY Charter Review Commission

Wednesday May 31, 2006
Conference Room
Sixth Floor, County Administration Building East
Everett, Washington

Commission Members Present: Gail Rauch, Mike Cooper, Ryan Larsen, David Simpson, Christine Malone, Mark Bond, Jim Kenny, Kristin Kelly, Rick Ortiz, Eric Earling, Wendy Valentine, Barbara Cothern Hawksford, Diane Symms, and Rene Radcliff Sinclair.

Commission Members Excused: Kim Halvorson.

Staff Present: Steve Reinig, Rich Davis, and Allena Olson

Others in Attendance: Grant Heppenstall, Beryl Neff, Carol Cates , Ed Moats, Peter Camp, Evelyn Spencer

Call to Order: Chair Cooper called the meeting to order at 6:31 p.m.

Approval of Agenda: ACTION: Commissioner Ortiz made a motion to approve the agenda. Commissioner Rauch seconded the motion, and all Commission members present unanimously approved it.

Approval of Minutes: Commissioner Kelly asked that a correction be made to page 8, paragraph 11.

ACTION: Commissioner Symms made a motion that the minutes of May 24, 2006 be approved as corrected. Commissioner Sinclair seconded the motion, and all Commission members present unanimously approved it.

Approval of Vouchers: ACTION: Commissioner Simpson made a motion to approve the reimbursement vouchers of the Commissioners, with a total of \$87.75. Commissioner Hawksford seconded the motion, and all Commission members present unanimously approved it.

Public Comment: Grant Heppenstall, who submitted written comments to the Commission last week, asked if there were any questions on his comments. Mr. Heppenstall spoke in favor of the line item veto, stating that it would be a more efficient way to do things and the Council would still have the ability to override if necessary. Mr. Heppenstall then asked the Commission, on the topic of salary commissions, to consider bunching all 3 of them together for efficiency.

Commissioner Symms asked Mr. Heppenstall to explain why he felt that the line item veto would be a more efficient process.

Mr. Heppenstall stated that this process would be more efficient because they could be more particular in what they want to change. It would be possible to pick out what they didn't want specifically, and limit the scope of change.

Commissioner Rauch asked Mr. Heppenstall which three salary commissions he was referring to.

Mr. Heppenstall stated that he was referring to the three different topics on the issue list all dealing with the salary commission.

Beryll Neff spoke of her desire of provisions for greater public knowledge of the actions of the administration of the city.

Chair Cooper asked Ms. Neff what she thought the benefit of greater transparency of government would be.

Ms. Neff replied that people would participate more if they knew what was happening.

Commissioner Symms asked Ms. Neff what the vehicle of communication would be.

Ms. Neff gave an example of a situation where the public had little knowledge that the land where the Everett Events Center is located, was to be used for the Center until the construction was already in process.

Commissioner Valentine asked Ms. Neff given the choice of media how would she chose to communicate government activities to the public.

Ms. Neff replied that she would choose either the newspaper or the radio.

Carol Cates also spoke on the issue of transparency of government. She stated that the majority of people don't vote because they don't know what they are voting on. She said she feels that issue #34, on public hearings in the evening, is a good first step. She also voiced her opinion of the website, and that she felt it should be reworked so that it was more evident to the public when the meetings are held, and that public speaking is allowed.

Commissioner Kelly asked Ms. Case if it was the entire County website she thought needed to be rearranged or if it was only the Charter Review Commission's website.

Ms. Case replied she felt the entire County website needed to be revamped.

Chair's Comments: Chair Cooper asked the Commissioner to take a look at the schedule in their packets. He stated that several Commissioners would be gone at the end of June and that he had made an effort to schedule issues that he knew certain people were passionate about, around their absences. He asked that the Commissioners take a look at the schedule and email any changes or concerns to Steve, excluding the next week's topics as those are already in the works.

Commissioner Bond asked if there were a set threshold of absentees were a meeting would be cancelled.

Chair Cooper replied that there is no set number, although it may happen that the meeting of June 28th be cancelled because the absentee number is nearing 1/3 of the Commission.

Commissioner Simpson asked if the Commission could address the matter of canceling the meeting tonight.

Chair Cooper replied that it would not be necessary to cancel unless there were more people who intended to be absent for that weeks meeting. He then asked if there was anyone else who thought they would miss the meeting of June 28th.

Motions to add to the Issue List: ACTION: Commissioner Valentine made a motion to bring issue #5 on Rules of Procedure related to the County Council/Transparency, back onto the issue list. Commissioner Simpson seconded the motion, and discussion of the motion commenced.

Commissioner Valentine spoke of her support for this issue, stating that true democracy only occurs if there is participation of the public. She also stated that the information should be available quickly, with a 24 hour turn around, so that the public knows not only what is happening, but exactly when. She stated that as it stands the citizens rarely know what is going on, and if there is no knowledge of what is happening they have no way of objecting to it.

Commissioner Valentine spoke of her personal experience with the difficulties of obtaining information from the County government. She stated that it is important to know not only what the government is doing as a whole, but also what each individual elected representative is doing also. How else would it be possible for the public to know whether or not they agree with the official, and if they wished to have them remain in office or vote them out.

Commissioner Kelly stated that she was in favor of the motion, that in her line of work she has seen first hand the difficult process of the public trying to gather information.

Commissioner Rauch said that while she agrees with the concept she is concerned with the 24 hour turn around stipulation. She stated that for this to happen there would be a great increase in administration costs.

Chair Cooper reminded the Commission that the motion was to simply add the issue back to the list, and that the specific language could be figured at a later date.

Commissioner Kelly asked if the issue were added back to the list would it be possible to talk about what aspects they would like the research on this topic to pertain to.

Chair Cooper replied that any information you would like to have presented with the research of this topic could be given to Steve.

Commissioner Earling asked Commissioner Valentine if it were true, when she attempted to find information on how the County Council had voted, days after the roll call she still had no information on how the members voted.

Commissioner Valentine replied that was true.

Commissioner Ortiz inquired as to what the original vote on this issue had been.

Commissioner Ortiz was informed that the original vote had been 7 to 7.

ACTION: The Commissioners voted and the motion passed 13 to 1.

Issue Debate: Issue #4, Biennial Budgeting. Steve presented the Commission with a briefing paper on this topic. He noted the interest in this issue by both the public and the elected officials that have spoken at Commission meetings. Steve spoke on the information within the packet, including the pros- long range planning, opportunities for staff redeployment, policy emphasis, department/contractor flexibility, time savings, as well as the cons- loss of control, difficulty in forecasting, state/federal funding uncertainty, unseen economic impacts, time savings, and software and accounting changes.

The briefing paper lists three options as possible actions for the Commission in voting on the biennial budgeting issue. These three options are Status Quo – The Charter Review Commission chooses to leave the Charter unchanged and on an annual budget cycle. Mandate Biennial Budgeting immediately – Change the wording in Section 6.2 from annual to biennial. This in effect directs the county to start biennial budgeting immediately. Option 3 – Provide the County the option to budget on a biennial basis by adding such wording to Section 6.2 and 6.5. This would allow the County the time to plan, evaluate, and set timelines for implementation.

The briefing paper also had several attachments including RCW 36.40.250 Biennial budgets – Supplemental and emergency budgets, Biennial budgets in Washington's Cities and Counties, Legislative analyst report; Biennial budgeting; and Biennial budgeting: Do the drawbacks outweigh the Advantages.

DISCUSSION: Commissioner Hawksford stated that the way the state regulations are worded is no different than the current situation.

Steve replied that the Charter is very specific to annual budgeting.

Commissioner Kelly asked if allowing for a biennial budget would make all of the budget processes biennial.

Steve replied that there could be specific language added into the Charter on that topic.

Commissioner Sinclair stated that according to the state legislation Counties may choose what departments they wish to have on a biennial/annual budget.

Commissioner Earling stated the current Charter language spells out specific timelines. He asked if the County would still need to meet timelines?

Steve replied that specific timelines would have to be addressed.

Commissioner Earling then asked if as a Commission they could choose to strike the timelines from the Charter.

Steve replied he believed they could do that.

Chair Cooper asked if the Commission could put on the ballot that the annual budget requirement be taken out of the Charter.

Steve replied that was correct.

Commissioner Valentine stated that if she were a voting citizen she would vote no way. She stated there needs to be an explanation of what specifically is going on, that there needs to be education on the wording.

Chair Cooper reminded the Commission that specific wording is part of the work that will be done in the future with Rich and Steve.

Commissioner Hawksford stated that she would not support having the timelines stricken, that she feels there need to be some constraints.

Commissioner Kenny stated that he was opposed to biennial budgeting. He likes that it is a lot of work for county elected officials to figure out the annual budget because dealing with our tax dollars is one of their most important responsibilities. He wants it to be looked at every year. He stated that the county elected officials are full-time and they employ a lot of full-time staff to look at the budget, and that's what they should be doing. He stated that with the State Legislature, they are part-time citizen legislators biennial budgeting might make sense for them, but that is not the situation of the County.

Commissioner Symms stated that she agreed with Commissioner Kenny. She stated that situations change so dramatically from year to year it would be very difficult to plan ahead two years out. She stated she felt there is plenty of staff, and that looking at an annual budget you stay current and on top of things.

Commissioner Ortiz stated that while it makes sense that we would want an efficient government he feels that accuracy is too important to compromise and that it shouldn't be messed with.

Commissioner Earling asked if it were possible to put something in the language conveying a choice between biennial and annual.

Rich stated there are a couple ways that could be done.

Commissioner Earling asked if there were ways to ensure a process for supplemental budgeting.

Steve replied that it is possible to do biennial appropriations, and then adjust the budget annually.

Commissioner Bond stated that he had spent most of his professional career as a public employee. He gave an example of a situation where an employee of another city had a surplus of funds near the end of the year and to ensure that she would receive the same amount of funds for the next year began spending her surplus frivolously. He stated that he figured that the County most likely has more of this inefficiency and that keeping the budget on an annual schedule minimizes this.

Commissioner Sinclair stated that having a policy in place and having one year for it to play out is not enough time to assess the performance of a policy. She stated that full time employees and timelines are fine but to be wary of stretching anything too far as accuracy is sure to fall.

Commissioner Kelly agreed with Commissioner Sinclair stating that it takes a lot of time to see if a new policy works, and that there should be an option. She also felt that the timelines should be kept.

Commissioner Symms stated when putting anything to the voters it is best to stick with the K.I.S.S. policy and keep it simple. She stated that if what is on the ballot is too complex people will simply vote "no", that they won't support something they don't understand.

Chair Cooper stated that he was in favor of option 3 listed in the briefing paper, that would give the County the option to implement biennial budgeting, since the state put legislature to allow this. He stated that having watched the city pass annual budgeting,

being able to plan that far ahead allows you the ability to have time to make changes (with appropriations) and to be efficient.

ACTION: Commissioner Hawksford made a motion to move forward with issue #4 on biennial budgeting, with the research focusing on option 3. Commissioner Larsen seconded the motion and debate on the motion began.

Commissioner Kenny stated that the Council already has the power under the current Charter to put this issue on the ballot if they believe it is useful, yet they have not done so. Thus, it must not be a significant problem.

Commissioner Earling stated that he is in favor of option 3. He said he felt this improves their ability to deal with the concerns that have been voiced such as efficiency, validation, and accuracy. He stated that he was struck with the number of people who have had experience with the budget and want to move this forward, and that it makes sense to give the voters an option.

Commissioner Valentine stated that she had been on the fence regarding this particular issue until she saw that only two of the Council members spoke on it and no one is for it. She stated that she is siding with Commissioner Kenny, and that if this is that important someone should convince the Council members of that.

Commissioner Rauch stated that she is in favor of the option because it is an option. She stated that she is in support of the elected officials.

Commissioner Kelly stated that she is still in favor of the motion – that the people who spoke to the Commission that were in favor of this were also the individuals who are working on the budget, and she would like to see them have the option.

Commissioner Ortiz wondered if this issue is one that they really want to champion as there are so many issues that could be put to the voters, and that if the current policy is working don't fix it.

Commissioner Bond asked if it were possible to thin the number of issues out later.

Chair Cooper stated that there will be a final vote in July about which issues to put on the ballot.

ACTION: Commissioner Rauch made a motion to end the debate. Commissioner Bond seconded the motion, and all Commission members present unanimously approved it.

The Commissioners then voted on the motion to move the issue forward with research focusing on option, made by Commissioner Hawksford and seconded by Commissioner Larsen. The motion passed with a vote of 9 to 5, the individual votes are as follows:
Cooper – aye Malone – aye

Rauch – aye	Sinclair – aye
Ortiz – nay	Simpson – aye
Earling – aye	Symms – nay
Larsen – aye	Hawksford – aye
Bond – nay	
Kelly – aye	
Kenny – nay	
Valentine – nay	

Issue #20, Section vs. Line Item Veto. Steve presented the Commission with a briefing paper on the Executive Veto, which includes the definition of each, as well as the pros and cons of each.

Sectional veto would allow the Executive the power to veto a section of an ordinance that was found to be objectionable without vetoing an entire ordinance. In a budget it could include entire sections unless a budget section contains more than one appropriation. In that case individual appropriations within a section can be vetoed. This is how the veto works for the Governor as described in Attachment 2, Veto power from the State Constitution.

Line Item Veto would allow the Executive to veto lines of an ordinance or lines in a budget. This is literally eliminating lines from proposed ordinances. The same pros and cons apply as to the section veto. The only additional caveat is whether there is a legal issue if the line itemed sentence(s) changes the original intent of the legislative authority. We are asking legal counsel for advice in this regard.

The briefing paper also included attachments of the list of vetoes over the life of the Charter, and Article III, Section 12, State Constitution. Included with the information given to the Commissioners by Steve was a letter from legal counsel regarding the line item veto.

DISCUSSION: Commissioner Hawksford said that looking at the cons there seems to be a great deal of amending going on.

Commissioner Simpson asked whether on both vetoes the Executive has the right to veto any section.

Steve replied that with the line item veto it can be only a word or sentence within a section.

Chair Cooper stated the State Supreme Court ruled that when using a line item veto it can not be used to change the initial intent of the ordinance.

Rich stated that if something less than a section is vetoed then it could be a void veto if it changes the intent of the ordinance.

Chair Cooper asked whether that was implicitly implied or if it would have to be stated in the Charter.

Rich replied that because of the Courts position he believes that it would be understood.

Commissioner Kelly asked that an example be given as to help them more thoroughly understand.

Rich presented the Commissioners with an example.

Commissioner Kenny stated that he was curious about the materials presented by Rich and asked among Washington cities what are the veto provisions.

Steve replied that he would follow up on that.

Commissioner Earling asked if it was rare for sectional vetoes to be contested in court.

Rich replied that there have been 6 or 7 brought to court since the veto has been in play.

Commissioner Valentine asked whether a certain item that had been added to an ordinance would be considered a line or a section.

Chair Cooper stated that it depends on how it was written, and whether it was listed on it's own or blended with another topic.

Commissioner Kelly stated that in most cases something like what Commissioner Valentine brought up would be a separate ordinance on it's own.

Commissioner Earling stated that if there is too much gamesmanship the whole thing can get sent back.

Commissioner Kenny stated that he feels this is a fundamental issue, the kind of basic issue that the Commission is in a position to address. He spoke on the differences in concerns facing the Federal government and the County government. He noted the bipartisan support of the elected officials who had spoken to the Commission in favor of a sectional veto. He expressed his concern that a sectional veto would alter the balance of power between the council and the executive in favor of the executive. He noted that the veto power had rarely been used under the Charter, and wondered why it should be changed when it did not appear to be broken.

Commissioner Ortiz stated that integrity is maintained with the sectional veto and that the line item veto is balance changing.

Commissioner Kelly stated that the sectional veto looks good to voters, that it saves the taxpayers money at the attorney's office.

Chair Cooper reminded the Commission that the Executive had stated he would have only vetoed one of the ordinances on the list instead of the five that were vetoed if he would have had the option of the sectional veto.

Commissioner Earling made a motion to move issue #20 forward. Commissioner Larsen seconded the motion and debate on the motion began.

Commissioner Earling stated he felt that Commissioner Kenny had a good point on bipartisan nature. He also stated he felt that the argument for sectional veto was compelling because of those who were for it.

Commissioner Bond reminded the Commission the Council member Gossett thought that it would be an unhealthy shift in power.

Commissioner Rauch stated that she was against the motion. She stated that she feels this is being changed because of the personalities of certain people, and that the government should not be changed based on the personalities of a few individuals.

Commissioner Valentine stated that she was against the motion. She feels that the motivation behind it may be questionable.

Chair Cooper asked if there was any more discussion on the topic.

There was no more discussion, and so the Commission voted on the motion made by Commissioner Earling and seconded by Commissioner Larsen. The motion passed with a vote of 8 to 6, with the individual votes as follows:

Cooper – aye	Rauch – nay
Ortiz – aye	Earling – aye
Larsen – aye	Bond – nay
Kelly – aye	Kenny – nay
Valentine – nay	Malone – aye
Sinclair – nay	Simpson – aye
Symms – nay	Hawksford – aye

Issue #37, Salary Commission for Elected Officials. Steve presented the Commission with a briefing paper on the Salary Commission. The paper gave a brief history and listed the options for the Commission to consider. These options are #1 – No change, leave the current system with the current commission with Council responsible for implementing recommendations and #2 – Change the Charter to include an independent salary commission.

DISCUSSION: Chair Cooper asked if it was correct that there would be no opportunity for a legislative body to change what the salary commission decided.

Steve replied that was correct.

Chair Cooper asked if it was also correct that for the salary commissions at the state level there were no built in provisions for a downturn in the economy.

Steve replied that was also correct.

Chair Cooper asked if the prosecuting attorney was included in the group of elected county officials whose salaries were determined by the salary commission.

Rich replied that he thinks that it is the county that determines the prosecuting attorney's salary.

Commissioner Rauch asked if there was ever an effort to overturn the rulings of a salary commission.

Chair Cooper replied that there may have been a bill that attempted to do that.

Steve stated that there was at one time a citizen who filed at the state level, but when that individual learned of the great lengths he would have to go to he walked away.

Commissioner Kelly asked if the salary commission could be either appointed or voted in.

Steve replied that it could be done like a lottery or there could be appointments made.

Commissioner Kelly stated that she felt that a salary commission appointed by the County Council seemed politicized and that she was a little skeptical.

Commissioner Hawksford stated that it was the consensus of the County Council that the salary commission was "hands off".

Commissioner Earling asked if there has been any state legislature that has opted not to accept this.

Steve replied there had not been any such situation that he was aware of.

Commissioner Earling asked if there was a precedent to have the commission appointed and accepted by the executive.

Chair Cooper stated that in Everett the situation had been that two members had been appointed by the City Council, one by the mayor and that those three selected the other four. He stated that there was also required to be a balance of labor/business and that there were built in provisions for that.

Commissioner Kelly said that she wondered if the public would see the commission as independent if they had been appointed by the County Council.

ACTION: Commissioner Rauch made a motion to move issue #37 forward with research focusing on the option of the independent salary commission. Commissioner Simpson seconded the motion and discussion on the motion began.

DISCUSSION: Commissioner Kenny stated that to him this does not seem like a basic issue but that it is such a political “hot potato” that they should get involved. He stated he feels that the County needs to pay the elected officials enough to keep good people in there. He also said that the state salary commission has worked out well in generally taking the politics out of this issue and so he is in favor of this motion.

Commissioner Larsen stated that he previously voted against the salary commission at another time because of the selection process chosen, but that he would support this motion.

Commissioner Sinclair stated that she would like to move this forward for more discussion, and that she had some concerns about this because it would be taking the budget writing ability out of the Council’s hands.

Chair Cooper asked if there was any more discussion on this topic.

There was no more discussion so a vote was taken on the motion made by Commissioner Rauch and seconded by Commissioner Simpson. All Commission members present unanimously approved the motion.

Administrative report: Steve included in the Commissioner’s packets the survey results of the latest survey as well as a memo on the contents of the next survey.

Steve requested that the Commissioners take a look and have all comments to him by Friday.

Adjournment: The meeting was adjourned at 8:30 p.m.

Minutes submitted by:

Allena Olson
Recorder